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Application No.: 10/696,246

2 NOV 27 2006 Docket No.: 509982005700

REMARKS/ARGUMENTS

In a final Office Action mailed on September 26, 2006, claims 1-2, 4-9, 13-14, and 16-21 have been allowed. Claims 10, 22, and 25 have been rejected, and claims 11-12, 23-24 were objected to. Applicants request reconsideration of the pending claims in view of the following remarks.

I. Claim Rejections -35 USC § 103

Claims 10, 22, 25 were rejected under 35 U.S.C. 103(a) as being unpatentable over the Taubenblatt reference in view of U.S. Patent No. 5,979,244 (the Michaelis reference).

In rejecting claims 10, 22, and 25, the final Office Action states, ‘‘Examiner considered the limitation of claim to be ‘determining one or more of conditions including the rotation of the structure is determined based on the azimuthal scan.’’’ Applicants assert that the Examiner is misstating the limitations of claims 10, 22, and 25.

A. Claims 10 and 22

Claims 10 and 22 recite “determining/determine rotation of the structure based on the measured cross polarization components.” Note, claims 10 and 22 do not recite that the rotation of the structure is determined based on the azimuthal scan as asserted by the Examiner. Note also that claims 10 and 22 do not recite “determining one or more conditions.”

The Examiner asserts that the Michaelis reference discloses “determining rotation of the structure based on the measured cross polarization or analyzer.” (Emphasis added.) The Examiner cites to element 612 of figure 6.

Applicants assert that FIG. 6 of the Michaelis reference does not disclose that the rotation of the structure is determined based on the measured cross polarization. Instead, Applicants assert that

sf-2204405

Application No.: 10/696,246

3

Docket No.: 509982005700

in the Michaelis reference the amount of rotation of the structure is a known amount that does not need to be determined from the reflected light.

In particular, FIG. 6 discloses a rotating analyzer 612 and a rotating stage 602. Column 4, lines 10-16 disclose that internal film stress is determined by rotating the sample over a rotation angle α and measuring a set of ellipsometric parameters. Column 10, lines 41-44 disclose that detector 614 receives the reflected light through rotating analyzer [612] to generate ellipsometric parameters Δ and Ψ . Column 10, lines 46-49 disclose, “[c]ontrol unit 618 receives and correlates the ellipsometric parameters Δ and Ψ from detector 614 to the angle of rotation, α , to determine stress at the selected area of sample 620.”

Thus, the unknown (what is being determined) is internal film stress. The known from which the unknown is being determined are the ellipsometric parameters Δ and Ψ and the angle of rotation, α . Also, rotating analyzer 612 is used to generate ellipsometric parameters Δ and Ψ rather than determine the angle of rotation, α .

Therefore, the combination of the Taubenblatt and the Michaelis references does not disclose, “determining/determine rotation of the structure based on the measured cross polarization components” as recited in claims 10 and 22.

B. Claim 25

Claim 25 recites “based on the measured cross polarization components, determining one or more of conditions including.” One of the conditions recited in claim 25 is “rotation of the structure.” Note, similar to claims 10 and 22 above, claim 25 does not recite that the rotation of the structure is determined based on the azimuthal scan as asserted by the Examiner.

The Examiner asserts that the Michaelis reference discloses “determining rotation of the structure based on the measured cross polarization or analyzer.” (Emphasis added.) As set forth above, Applicants assert that FIG. 6 of the Michaelis reference does not disclose that the rotation of the structure is determined based on the measured cross polarization. Instead, Applicants assert that

sf-2204405

Application No.: 10/696,246

NOV 27 2006

Docket No.: 509982005700

in the Michaelis reference the amount of rotation of the structure is a known amount that does not need to be determined from the reflected light.

Therefore, the combination of the Taubenblatt and the Michaelis references does not disclose determining rotation of the structure "based on the measured cross polarization components" as recited in claim 25.

For at least the reasons set forth above; Applicants assert that claims 10, 22, and 25 are allowable over the combination of the Taubenblatt reference and the Michaelis reference. Applicants also assert that claims 11, 12, 23, and 24 are allowable for at least the reason that they depend from allowable independent claims.

II. Allowable Subject Matter

Applicants thank the Examiner for the allowance of claims 1-2, 4-9, 13-14, and 16-21.

III. Response to Arguments

In the final Office Action, the Examiner appears to adopt the dictionary definition of the term "cross" as being "intersect lines each other." Applicants first note that the relevant term is "cross polarization components" rather than simply the word "cross." Also, as Applicants have previously asserted, the term "cross polarization components" was clearly defined on page 5, paragraph [0025], of the present application as originally filed, as a change in the linear polarization state between the incident beam and the diffracted beam (e.g., the cross-polarization terms, R_{sp} , R_{ps} , rather than in-polarization terms, R_{ss} , R_{pp}). Applicants assert that this definition of the claim term "cross polarization components" should be adopted in accordance with MPEP section 2101.01.

sf-2204405

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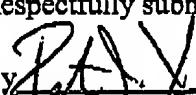
IV. Conclusion

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 509982005700. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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sf-2204405